

109TH CONGRESS
2D SESSION

S. 3899

To achieve balance in the foreign trade of the United States, through a market-based system of tradable certificates, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 14, 2006

Mr. DORGAN (for himself and Mr. FEINGOLD) introduced the following bill;
which was read twice and referred to the Committee on Finance

A BILL

To achieve balance in the foreign trade of the United States,
through a market-based system of tradable certificates,
and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Balanced Trade Res-
5 toration Act of 2006”.

6 **SEC. 2. FINDINGS.**

7 Congress makes the following findings:

8 (1) Since the 1990s, the United States has ex-
9 perienced record trade deficits that has made the

1 United States the largest debtor country in the
2 world.

3 (2) In 2005, the merchandise trade deficit of
4 the United States was a record \$767,000,000,000,
5 and in 2006, the merchandise trade deficit of the
6 United States is projected to surpass the record set
7 in 2005.

8 (3) The surging trade deficits could soon create
9 a balance of payments crisis for the United States,
10 which could wreak havoc with the economy of the
11 United States.

12 (4) Article XII of the General Agreement on
13 Tariff and Trade (GATT 1994), annexed to the
14 Agreement Establishing the World Trade Organiza-
15 tion entered into on April 15, 1994, permits any
16 member country to restrict the quantity or value of
17 imports in order to safeguard the external financial
18 position and the balance of payments of the member
19 country.

20 (5) In accordance with Article XII of the GATT
21 1994, the United States should take steps to restore
22 balance to its merchandise trade, and safeguard its
23 external financial position and its balance of pay-
24 ments.

1 (6) The imposition of import restrictions should
 2 be phased in to allow the economy of the United
 3 States to absorb the impact of import restrictions
 4 with minimal disruption.

5 **SEC. 3. DEFINITIONS.**

6 In this Act:

7 (1) **BALANCED TRADE CERTIFICATE; CERTIFI-**
 8 **CATE.**—The terms “Balanced Trade Certificate”
 9 and “Certificate” mean a certificate issued pursuant
 10 to section 4 that provides the holder of the certifi-
 11 cate with a license to import into the United States
 12 a good with an appraised value that is equal to or
 13 less than the face value of the certificate.

14 (2) **DEPARTMENT.**—The term “Department”
 15 means the Department of Commerce.

16 (3) **OIL OR GAS.**—The term “oil or gas” means
 17 any good classifiable under—

18 (A) heading 2709 of the Harmonized Tar-
 19 iff Schedule of the United States (relating to
 20 petroleum oils and oils obtained from bitu-
 21 minous minerals, crude);

22 (B) heading 2710 of the Harmonized Tar-
 23 iff Schedule of the United States (relating to
 24 petroleum oils and oils obtained from bitu-
 25 minous minerals, other than crude); and

1 (C) heading 2711 of the Harmonized Tar-
 2 iff Schedule of the United States (relating to
 3 light oils and preparations).

4 (4) PROGRAM.—The term “Program” means
 5 the Balanced Trade Certificate Program established
 6 under section 4.

7 (5) SECRETARY.—The term “Secretary” means
 8 the Secretary of Commerce.

9 **SEC. 4. ESTABLISHMENT OF BALANCED TRADE PROGRAM.**

10 (a) IN GENERAL.—Not later than 180 days after the
 11 date of the enactment of this Act, the Secretary shall, in
 12 cooperation with the Secretary of Homeland Security, es-
 13 tablish a Balanced Trade Certificate Program within the
 14 International Trade Administration of the Department.
 15 The purpose of the Program is to create gradually balance
 16 between the dollar value of goods imported into the United
 17 States and goods exported from the United States.

18 (b) REGULATORY AUTHORITY.—The Secretary, in
 19 cooperation with the Secretary of Homeland Security,
 20 shall promulgate regulations in accordance with section 5
 21 that provide for—

- 22 (1) issuing Certificates to exporters;
- 23 (2) collecting Certificates from importers;
- 24 (3) valuing the Certificates issued and collected;
- 25 and

1 (4) trading Certificates.

2 **SEC. 5. OPERATION OF THE PROGRAM.**

3 (a) EXPORTERS.—

4 (1) ISSUANCE OF CERTIFICATES.—The Pro-
 5 gram established under section 4 shall provide for
 6 the issuance of a Certificate to any person who ex-
 7 ports a good from the United States with a face
 8 value equivalent to a multiple of the appraised value
 9 of the good determined pursuant to paragraph (2).

10 (2) VALUE OF BALANCED TRADE CERTIFI-
 11 CATES.—

12 (A) DETERMINATION OF VALUE.—The
 13 Secretary shall establish a system for the valu-
 14 ation of Certificates. To the extent practicable,
 15 the value of a Certificate shall be based upon
 16 the appraised value declared on the shipper's
 17 export declaration (SED), in accordance with
 18 subparagraph (B);

19 (B) SYSTEM OF VALUATION.—The value of
 20 a Certificate shall be determined in accordance
 21 with the following table:

If a Certificate is issued:**The face value of the Certificate is an amount equal to:**

During the first year the Program is in operation	140% of the appraised value of the good exported.
During the second year the Program is in operation	130% of the appraised value of the good exported.
During the third year the Program is in operation	120% of the appraised value of the good exported.
During the fourth year the Program is in operation	110% of the appraised value of the good exported.
After the fourth year the Program is in operation	100% of the appraised value of the good exported

1 (b) IMPORTERS.—

2 (1) SUBMISSION REQUIREMENT.—Except as de-
3 scribed in paragraph (5), any person who imports a
4 good into the United States shall submit to the Sec-
5 retary of Homeland Security, not later than 90 days
6 after the date on which the good enters the United
7 States, a Certificate with an aggregate face value
8 equal to or greater than the appraised value of the
9 good imported pursuant to paragraph (2).

10 (2) VALUATION OF IMPORTED GOODS.—The
11 Secretary shall establish a method for the valuation
12 of goods imported into the United States. The meth-
13 od may include the use of the declared dollar value
14 of the goods on the Entry Summary (United States
15 Customs and Border Protection Form 7501).

16 (3) COLLECTION OF CERTIFICATES.—The Sec-
17 retary shall establish a system for the collection of
18 Certificates submitted by importers to the Secretary
19 of Homeland Security.

1 (4) PENALTY FOR FAILURE TO SUPPLY CER-
 2 TIFICATES.—If a person imports a good into the
 3 United States and fails to submit a Certificate with
 4 an aggregate face value equal to, or greater than,
 5 the value of the good imported as required by para-
 6 graph (1), the Secretary of Homeland Security
 7 shall—

8 (A) suspend the person from importing
 9 any good until such time as a Certificate re-
 10 quired by paragraph (1) is submitted; and

11 (B) impose a penalty equal to 3 times the
 12 appraised value of the good imported.

13 (5) EXCEPTION FOR OIL OR GAS.—

14 (A) ADJUSTMENT PERIOD.—During the
 15 period that begins on the date of the enactment
 16 of this Act and ends 5 years after such date,
 17 paragraph (1) shall not apply to a person who
 18 imports oil or gas into the United States.

19 (B) GRADUAL VALUATION.—At the end of
 20 the period described in subparagraph (A), any
 21 person who imports oil or gas into the United
 22 States shall submit to the Secretary of Home-
 23 land Security, not later than 90 days after the
 24 date on which the oil or gas enters the United
 25 States, a Certificate with an aggregate face

1 value equal to, or greater than, the appraised
 2 value of the oil or gas imported pursuant to
 3 paragraph (2), adjusted in accordance with the
 4 following table:

If the oil or gas is imported:	The aggregate face value of the Certificate required to import the oil or gas is:
During the sixth year the Program is in operation	60% of the appraised value of the oil or gas imported.
During the seventh year the Program is in operation	70% of the appraised value of the oil or gas imported.
During the eighth year the Program is in operation	80% of the appraised value of the oil or gas imported.
During the ninth year the Program is in operation	90% of the appraised value of the oil or gas imported.
After the ninth year the Program is in operation	100% of the appraised value of the oil or gas imported.

5 (c) MANAGEMENT OF CERTIFICATES.—

6 (1) CERTIFICATES REMOVED FROM CIRCULA-
 7 TION.—Upon the receipt of a Certificate from a per-
 8 son importing a good, the Secretary of Homeland
 9 Security, in cooperation with the Secretary, shall
 10 permanently remove the Certificate from circulation.

11 (2) TRANSFERABILITY AND LIMITATION ON VA-
 12 LIDITY OF CERTIFICATES.—A Certificate issued pur-
 13 suant to this Act shall be—

14 (A) fully transferable; and

15 (B) valid for 365 days from the date the
 16 Certificate is issued.

